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LEGISLATIVE SUPPLEMENT

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PART II

GOVERNMENT OF PUNJAB
DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB
NOTIFICATION

The 31st December, 2019

No. 25-Leg./2019.—The following Ordinance of the Governor of Punjab, promulgated under clause (1) of article 213 of the Constitution of India on the 31st day of December, 2019, is hereby published for general information:—

THE PUNJAB GOODS AND SERVICES TAX (AMENDMENT)

ORDINANCE, 2019

(Punjab Ordinance No. 5 of 2019)

AN

ORDINANCE

further to amend the Punjab Goods and Services Tax Act, 2017.

Promulgated by the Governor of Punjab in the Seventieth Year of the Republic of India.

Whereas, the Legislative Assembly of the State of Punjab is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Punjab is pleased to promulgate the following Ordinance, namely:—

1. (1) This Ordinance may be called the Punjab Goods and Services Tax (Amendment) Ordinance, 2019. Short title and commencement.

(2) Save as otherwise provided, the provisions of this Ordinance shall come into force on such date as the Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Ordinance and any reference in any such provision to the commencement of this Ordinance shall be construed as a reference to the coming into force of that provision.

2. In the Punjab Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 2, in clause (4), after the words and sign “the Appellate Authority for Advance Ruling,”, the words and sign “the National Appellate Authority for Advance Ruling,” shall be inserted; Amendment in section 2 of Punjab Act 5 of 2017.

3. In the principal Act, in section 10,—
(a) in sub-section (1), after the second proviso, the following Explanation shall be inserted, namely:— Amendment in section 10 of Punjab Act 5 of 2017.

“Explanation.—For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of

interest or discount shall not be taken into account for determining the value of turnover in the State.”;

(b) in sub-section (2),—

- (i) in clause (d), the word “and” occurring at the end shall be omitted;
- (ii) in clause (e), for the word and sign “Council:”, the words and sign “Council; and” shall be substituted;
- (iii) after clause (e), the following clause shall be inserted, namely:—
“(f) he is neither a casual taxable person nor a non-resident taxable person.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent of the turnover in the State, if he is not,—

- (a) engaged in making any supply of goods or services which are not leviable to tax under this Act;
- (b) engaged in making any inter-State outward supplies of goods or services;
- (c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;
- (d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- (e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.”;

(d) in sub-section (3), after the words, brackets and figure “under sub-section (1)” at both the places where they occur, the words,

brackets, figure and letter “or sub-section (2A), as the case may be,” shall be inserted.

- (e) in sub-section (4), after the words, brackets and figure “of sub-section (1)”, the words, brackets, figure and letter “or, as the case may be, sub-section (2A)” shall be inserted.
- (f) in sub-section (5), after the words, brackets and figure “under sub-section (1)”, the words, brackets, figure and letter “or sub-section (2A), as the case may be,” shall be inserted.
- (g) after sub-section (5), the following Explanations shall be inserted, namely:—

‘Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression “turnover in State” shall not include the value of following supplies, namely:—

- (i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.’.

4. In the principal Act, in section 22, in sub-section (1), after the second proviso, the following shall be inserted, namely:—

“Provided also that the Government may, on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Amendment in
section 22 of
Punjab Act 5 of
2017.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”.

5. In the principal Act, in section 25, after sub-section (6), the following sub-sections shall be inserted, namely:—

Amendment in
section 25 of
Punjab Act 5 of
2017.

“(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be

offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or part of the State, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.”.

6. In the principal Act, after section 31, the following section shall be inserted, namely:—

Insertion of new section 31A of Punjab Act 5 of 2017.

“31A. The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.”.

7. In the principal Act, in section 39,-

Amendment in section 39 of Punjab Act 5 of 2017.

- (a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

- (2) A registered person paying tax under the provisions of

section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.”;

- (b) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.”.

8. In the principal Act, in section 44, in sub-section (1), for the sign ".", the sign ":" shall be substituted and thereafter following provisos shall be inserted, namely:—

Amendment in section 44 of Punjab Act 5 of 2017.

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.”

9. In the principal Act, in section 49, after sub-section (9), the following sub-sections shall be added, namely:—

Amendment in section 49 of Punjab Act 5 of 2017.

“(10) A registered person may, on the common portal, transfer any

amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).”.

10. In the principal Act, in section 50, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment in section 50 of Punjab Act 5 of 2017.

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”.

11. In the principal Act, in section 52, —

Amendment in section 52 of Punjab Act 5 of 2017.

- (a) in sub-section (4), for the sign ".", the sign ":" shall be substituted and thereafter following provisos shall be inserted, namely:—

“Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.”;

- (b) in sub-section (5), for the sign ".", the sign ":" shall be substituted and thereafter following provisos shall be inserted, namely:—

“Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.”.

12. In the principal Act, after section 53, the following section shall be inserted, namely:—

Insertion of new section 53A of Punjab Act 5 of 2017.

“53A. Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger for central tax or integrated tax or cess, the Government shall, transfer to the central tax account or the integrated tax account or cess account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.”.
13. In the principal Act, in section 54, after sub-section (8), the following sub-section shall be inserted, namely:—

Amendment in section 54 of Punjab Act 5 of 2017.

“(8A) Where the Central Government has disbursed the refund of the State tax, the Government shall transfer an amount equal to the amount so refunded, to the Central Government.”.
14. In the principal Act, in section 95,—

Amendment in section 95 of Punjab Act 5 of 2017.

 - (i) in clause (a),—
 - (a) after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;
 - (b) after the words and figures “of section 100”, the words, figures and letter “or of section 101C” shall be inserted;
 - (ii) after clause (e), the following clause shall be added, namely:—

‘(f) “National Appellate Authority” means the National Appellate Authority for Advance Ruling referred to in section 101A.’.
15. In the principal Act, after section 101, the following sections shall be inserted, namely:—

Insertion of new section 101A, 101B and 101C of Punjab Act 5 of 2017.

“101A. Subject to the provisions of this Chapter, for the purposes of this Act, the National Appellate Authority for Advance Ruling constituted under section 101A of Central Goods and Services Tax Act, 2017 shall be deemed to be the National Appellate Authority for Advance Ruling under this Act.

101B. (1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting Advance Rulings are given by the Appellate Authorities of two or more States or Union territories or both under sub-section (1) or sub

section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such Advance Ruling, may prefer an appeal to National Appellate Authority:

Provided that the officer shall be from the States in which such Advance Rulings have been given.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.—For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

101C. (1) The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.

(2) If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.

(3) The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.

(4) A copy of the Advance Ruling pronounced by the National Appellate

Authority shall be duly signed by the Members and certified in such manner as may be prescribed and shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement.”.

16. In the principal Act, in section 102, in the opening portion,—
- Amendment in section 102 of Punjab Act 5 of 2017.
- (a) after the words “Appellate Authority”, at both the places where they occur, the words “or the National Appellate Authority” shall be inserted;
 - (b) after the words and figures “or section 101”, the words, figures and letter “or section 101C, respectively,” shall be inserted;
 - (c) for the words “or the appellant”, the words “,appellant, the Authority or the Appellate Authority” shall be substituted.
17. In the principal Act, in section 103, -
- Amendment in section 103 of Punjab Act 5 of 2017.
- (i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

 - (a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961;
 - (b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.”;
 - (ii) in sub-section (2), after the words, brackets and figure “in sub-section (1)”, the words, brackets, figure and letter “and sub-section (1A)” shall be inserted.
18. In the principal Act, in section 104, in sub-section (1),—
- Amendment in section 104 of Punjab Act 5 of 2017.
- (a) after the words “Authority or the Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;

- (b) after the words and figures “of section 101”, the words, figures and letter “or under section 101C” shall be inserted.

19. In the principal Act, in section 105, -

Amendment in
section 105 of
Punjab Act 5 of
2017.

- (a) in the marginal heading, the following marginal heading shall be substituted, namely:—

“Powers of Authority, Appellate Authority and National Appellate Authority.”;

- (b) in sub-section (1), after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted;

- (c) in sub-section (2), after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted.

20. In the principal Act, in section 106, -

Amendment in
section 106 of
Punjab Act 5 of
2017.

- (a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Procedure of Authority, Appellate Authority and National Appellate Authority.”;

- (b) after the words “Appellate Authority”, the words “or the National Appellate Authority” shall be inserted.

21. In the principal Act, in section 171, after sub-section (3), the following sub-sections shall be inserted, namely:—

Amendment in
section 171 of
Punjab Act 5 of
2017.

- ‘(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.—For the purposes of this section, the expression “profiteered” shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit

to the recipient by way of commensurate reduction in the price of the goods or services or both.’.

V.P. SINGH BADNORE,
GOVERNOR OF PUNJAB.

S.K. AGGARWAL,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.